THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND
THE HON'BLE MR JUSTICE M. VENKATESWARA REDDY

WRIT PETITION No: 8522 of 2006

-

Date: 26.04.2006

-

Between:

M/s. Dhanalaxmi Iron Industries Ltd.,

Muktiyar Gunj, Hyderabad,

Rep., by its Managing Director,

Sri Anil Agarwal.

... PETITIONER.

AND

The Appellate Dy. Commissioner (CT),

Punjagutta Division, Hyderabad & another.

... RESPONDENTS.

THE HON'BLE MR JUSTICE J.CHELAMESWAR

AND

THE HON'BLE MR JUSTICE M. VENKATESWARA REDDY

WRIT PETITION No.8522 of 2006

ORDER:- (PER THE HONOURABLE JC,J)

This writ petition is filed with a prayer as follows:

> "… …Hon'ble Court may be pleased to issue a writ anappropriate writ, order or direction more particularly in a nature of Mandamus declaring the order dated 15.02.2006 in AR-SI No.C/121/2005, passed by the 1st respondent in rejecting the appeal filed by the petitioner at the admission stage as illegal, arbitrary, and without jurisdiction and consequently set aside the same and further direct him to entertain and dispose of the appeal on merits after affording opportunity of personal hearing to the petitioner and pass such other order or orders as the Hon'ble Court may deem fit and proper in the circumstances of the case."

Aggrieved by an order of assessment, dated 03.08.2005, the petitioner preferred an appeal to the 1st respondent under A.P. General Sales Tax Act (for short "the Act") on 02.11.2005. However, the petitioner did not comply with the requirements of making the deposit of the admitted tax and 12.5 % of the disputed tax as contemplated under Section 19 of the Act. Therefore, the 1st respondent herein by the impugned order rejected the appeal. Hence, the present writ petition.

It is stated by the learned counsel for the petitioner that subsequent to the rejection of appeal the requirements of making the deposit as contemplated under Section 19 of the Act has been complied with by the petitioner.

A Division Bench of this Court in WP.No.27037 of 2005 in similar circumstances took the opinion that in the interest of justice the appellate authority be directed to take the appeal on record and decide it on merits though there was some delay in complying the requirements of Section 19 of the Act.

Heard the learned Government Pleader.

In the circumstances, we deem it appropriate to dispose of the writ petition at the admission stage setting aside the impugned order, dated 15.02.2006, directing the 1st respondent to consider the appeal of the petitioner on merits in accordance with law, subject to the condition that the appeal is otherwise maintainable as on today.

Accordingly, the writ petition is disposed of. No order as to costs.

_____

J.CHELAMESWAR, J

_____

M. VENKATESWARA REDDY, J

Date: 26.04.2006

ES